

Subcommittee on Financial Reform

Staff Report on Big City Auditing Functions by James W. Ingram III

The Subcommittee on Financial Reform requested a report on the Auditing Functions of six specific cities: Los Angeles, New York City, Oakland, San Francisco, San Jose and Seattle. More specifically, the Subcommittee wanted a more detailed analysis of these cities' structures for auditing, how these structures were created, and how they have performed.

Comparative Bond Ratings

The United States' Census Bureau reports in its 2007 Statistical Abstract that these are the 4th quarter 2005 Bond Ratings for the six cities the Subcommittee requested:¹

<u>Cities Ranked by 2000 Population²</u>	<u>Standard & Poor's</u>	<u>Moody's</u>	<u>Fitch</u>
New York, NY	A+	A1	A+
Los Angeles, CA	AA	Aa2	AA
San Jose, CA	AA+	Aa1	(NA)
San Francisco, CA	AA	Aa3	AA-
Seattle, WA	AAA	Aaa	(NA)
Oakland, CA	A+	A1	A+

http://www.census.gov/compendia/statab/state_local_govt_finances_employment/

New York City

New York's City Charter has long featured an elected Comptroller. In fact, the current office-holder is the 42nd person to hold the position. The office of Comptroller was apparently provided through ratification of the 1898 Charter, which was enacted with the creation of Greater New York through the consolidation of the five boroughs. Under the 1898 Charter, the Comptroller served as a member of the Board of Estimate, along with the Mayor, the City Council President and the presidents of the five boroughs. These officers were charged with acting as a sort of upper house for the New York City government, and preventing ill-considered financial decisions. The Comptroller, Mayor and Council President each held two votes as they were elected citywide.

The existence of an elected Comptroller and a Board of Estimate did not prevent the city from nearly entering bankruptcy in 1975. The State of New York stepped in, forming the Municipal Assistance Corporation (MAC) and the Emergency Financial Control Board to help the city live within its means.³ In 1989, in the case of *Morris v. Board of Estimate*, the United States Supreme Court found that the absence of one person-one vote representation on the Board of Estimate (a result of the differing populations of the city's five boroughs) meant that body's composition violated the Voting Rights Act. New York formed a Charter Revision Commission, which gave the document its most thorough review since 1898. The new 1991 Charter repealed the Board of Estimate although it left the elected Comptroller in place. The new charter, however, depended on a new Independent Budget Office to help the city prevent a recurrence of the 1975 fiscal crisis.

¹ See Appendix One for an explanation of the three municipal bond rating codes.

² See Appendix Two for a listing of the municipal bond ratings for the other large cities in the U.S.

³ There are a number of excellent books on the NYC fiscal crisis, including Ester Fuchs' *Mayors and Money*, John Mollenkopf's *The Cost of Good Intentions*, and Martin Shefter's *Fiscal Crisis, Political Crisis*.

In 2004, the deficiencies remaining in the financial organization of New York City prompted the city's voters to pass yet another charter amendment revising the charter's budget provisions. The voters voluntarily added to the city charter the requirements that had been imposed upon the city by New York State in 1975. Based on passing this amendment, New York's City charter will now: 1) "Require that the City annually prepare a budget balanced in accordance with generally accepted accounting principles (GAAP), and end each year not showing a deficit in accordance with those principles;" 2) "Require that the Mayor annually prepare a four-year City financial plan, to be based on reasonable assumptions and modified on at least a quarterly basis, and that the plan provide for payment of the City's debts and a general reserve of at least \$100 million to cover shortfalls;" 3) "Impose additional conditions on the Charter's current restrictions on short-term debt (which may be issued by the City to fund a projected deficit or in anticipation of the receipt of funds from taxes, revenues and bonds). These conditions generally limit the duration and amount of the short-term debt; and" 4) "Impose additional conditions on the annual audit of the City's accounts. These conditions relate to application of generally accepted auditing standards and access by auditors to records so that the audit may be issued within four months after the close of the City fiscal year."⁴

The city's present financial position appears to be strong, although many caution that the city has not addressed its long-term debt position even though the MAC experience is now about over, with the last of the NYC fiscal crisis bonds due to be retired in 2008.⁵

Los Angeles

Los Angeles has elected an official to take care of auditing the city ever since it enacted California's first home rule charter in 1889. Los Angeles' 1889 Charter featured many elected officials, and provided for four different elected fiscal officers--the Auditor, the Assessor, the Treasurer and the Tax & License Collector. Between electing these four officers citywide, as well as the Mayor, City Attorney, City Clerk, City Engineer, Street Superintendent, the Police Judges (not to mention the City Council and the Board of Education by wards) the electorate was very busy.

In 1925, the city enacted a new charter, which retained the election of the city's auditing official, the City Controller, but transferred the other functions once performed by elected officials to appointees (Clerk, Treasurer). (The 1925 Charter greatly reduced the number of elected officials; only the Mayor, City Attorney, City Controller and Board of Education would be elected citywide, and the City Council would be elected by districts.) The City Controller acted mainly as an accountant, authorizing the city's appointed Treasurer to disburse funds. There were over 400 amendments to the Los Angeles Charter between 1925 and 1999, but the provisions regarding the Los Angeles Controller's office remained virtually identical. Except for the imposition of a two-term limit, the officer remained for over seven decades an elected official with much the same duties as under the 1925 Charter.

The new Charter that Los Angeles enacted in 1999 did, however, enhance the Controller's authority, allowing the officer explicit authority to conduct performance audits, clarifying the officer's control over departments controlling their own funds, and allowing the officer to issue debt impact statements allowing taxpayers to assess the city's finances. Financial

⁴ This is from the website: <http://www.nyc.gov/html/charter/html/home/home.shtml>

⁵ New York State formed the Local Governments Assistance Commission (LGAC) recently, and this agency may have bought the remaining MAC bonds. According to one report, however, this raised the finance charge and extended the effective life of the obligation.

management of the city was an issue in 1999, and the improvements in the Controller's office were a selling point for the city's new 1999 Charter.⁶

San Jose

San Jose's present charter was enacted in 1965. The city's 1965 Charter changed the City Auditor from an officer elected by the people to an appointee of the City Council. At the end of the City Auditor's term, the new appointee would take office, and would serve for a four year term. Six members of the Council could dismiss the City Auditor prior to the end of the specified term, but only for cause: ("misconduct, inefficiency, incompetence, inability or failure to perform the duties of such office or negligence in the performance of such duties, provided it first states in writing the reasons for such removal and gives the incumbent an opportunity to be heard before the Council in his own defense"). The City Auditor was authorized to conduct complete audits, suggest improvements of the city's fiscal affairs and this officer reported to the Council.

In 1979, San Jose increased the size of its City Council from 7 members to 11 members (the mayor was counted as a member of the Council). Because of the increase in Council size, the city increased the number of members required to dismiss the City Auditor prior to the end of the officer's term. The margin necessary for early Auditor firing was raised from 6/7 to 10/11.

In 1980, San Jose granted the City Auditor authority over appointment, discipline and removal of the staff of his or her office, subject to the Charter's civil service provisions. The Charter also stated that appointments and removals in the Auditor's office were not to be dictated by the Mayor or Council, but that "the Council may express its views and fully and freely discuss with the City Auditor anything pertaining to the appointment and removal of such employees."

In 1986, San Jose greatly expanded the City Auditor's authority. That officer may now conduct performance audits, assess the management of city departments, offices and agencies, examine the adequacy of management information systems, determine whether management is meeting the objectives set for city policy, and even conduct special audits and investigations to find whether Council is being provided with accurate information. The City Auditor's personnel powers were also enhanced, allowing the officer to employ professional and technical employees exempt from civil service. Finally, as a check upon the City Auditor, the Council must employ an independent audit firm to conduct performance audits of the City Auditor's office on a bi-annual basis.

San Francisco

San Francisco is unique among the cities covered in this survey because it is a city-county. In 1856, California passed a Consolidation Act, which unified the city and county of San Francisco into one entity. Because San Francisco was originally a county too, and California counties typically elect financial officers, it is not surprising that the city elected financial officers under its 1856 Consolidation Act, as it would under its 1900 home rule charter.

In its 1900 Charter, San Francisco provided for an 18-member Board of Supervisors elected at-large, as well as a mayor and 11 other officials elected citywide. In terms of finance, San Francisco elected four officers—the Auditor, the Treasurer, the Tax Collector and the Assessor. However, in 1931, San Francisco voters ratified a new charter under which its

⁶ See Appendix Three for a comparison of the language before and after the 1999 revisions.

Controller would be an appointed official. The Controller was to be the successor of the Auditor, and wield the powers typical of a County Auditor under California law. The Controller was to be a Mayoral appointee, subject to confirmation and approval by the Board of Supervisors. The Controller could only be removed by a two-thirds vote of the Supervisors. The Controller was to act as an accountant, but also to audit the accounts of all departments, upon Mayoral request.

In 1996, the Controller was awarded a ten-year term, although the remainder of the provisions regarding appointment and removal of this officer were kept the same.

In 2003, San Francisco changed its charter to strengthen the audit functions of the Controller. Under the terms of Appendix F to the Charter, the Controller is now authorized to perform management audits, performance audits, service audits, etc. The officer holds extensive audit authority.⁷

Seattle

Seattle is presently operating under the charter their city voters enacted in 1946. The 1946 charter originally provided for an elected Comptroller and an elected Treasurer. In 1991, the voters consolidated the city's finance functions from these two officers, as well as the mayor's budget office, into a single Department of Finance. This Department was to be headed by a mayoral appointee. The same charter amendment also created a new officer, the Auditor, who would be appointed by the chair of the City Council's Finance Committee to serve for a six-year term. This officer could be removed for cause by a majority of the City Council.

The Auditor is not explicitly granted charter authority to conduct performance audits or other such reviews. However, since the officer may "perform such other duties as are prescribed by law", the City Council can request more aggressive kinds of audits if the legislators so desire.

In 2006, the term of the Auditor was shortened from six years to four years, so that the officer's term would coincide with that of the city's elected officials. In addition, the charter was amended to provide that the Auditor would be appointed by a majority of the City Council rather than the chair of its Finance Committee.

Oakland

Oakland enacted a new charter in 1969. The document provided for a City Auditor, who would be nominated and elected the same way as the Mayor. The City Auditor was required to be a city resident for at least four years before being nominated for the position. This officer was to audit the books of all departments and agencies, to recommend accounting improvements to the Manager, and to report where the Manager did not comply with requests to adopt GAAP.

In 1979, professionalism apparently became an issue, as Oakland amended the Auditor-related provisions of the charter to reduce the residency requirement from 4 years to 30 days. In addition, the officer was required to be certified by the California State Board of Accountancy as a CPA or by the Institute of Internal Auditors as a Certified Internal Auditor.

⁷ See Appendix Four for the San Francisco Charter's 2003 provisions.

In 1996, Oakland again amended the Auditor-related provisions of the charter. The authority of the officer was increased greatly. For example, the Auditor is now mandated to conduct performance audits of all departments.

In 2004, the Oakland charter was amended to set parameters upon the salary of the City Auditor. The salary “shall be not less than 70% nor more than 90% of the average salaries of City Auditors of California cities within the three immediate higher and the three immediate lower cities in population to Oakland.” There were a number of changes to the Oakland Charter’s provisions for the salaries of elected officials, including the Mayor, Council members and City Attorney. They were all part of Measure P, which institutionalized Oakland’s strong mayor-council charter.

City Comparisons

All of these cities appear to have performed reasonably well in recent years, judging from their CAFRs and the ratings of their municipal bonds by the three major indices—Standard & Poors, Moody’s and Fitch’s.

In the research I conducted through their city newspapers, academic literature, websites, charter ballot arguments, and other sources, it appears that the city’s choice of which mechanism to employ for the audit function was not particularly significant for each city’s overall economy. In fact, national trends such as the 1970s era downturn and the early 1990s recession seem to have affected cities much more than their city charter’s auditing system. Occasionally, an ephemeral scandal within a city or a power struggle between officials seems to have worked its way into the charter reform struggle. However, the larger economy of each city, which affected city revenues and expenditures on many levels, seems to have played the most important role in explaining their city’s performance. The kind of financial management practices which brought trouble to New York City in the days of stagflation might not cause a ripple in the stronger economy that the Big Apple enjoys today. However, as a number of people are warning, New York City has structural problems which could bring dire results if the national economy declines.

San Diego is itself a case in point. In 1997, the City of Los Angeles paid the Government Finance Officers Association to do a report on the finance function. San Diego was a model of good financial management at the time. The city outperformed many California cities, according to the ratings the GFOA produced. In fact, when compared to the cities surveyed above, only New York City outperformed San Diego in terms of the percentage of total general expenditures dedicated to the costs of financial administration.⁸

Philadelphia was not one of the cities surveyed above, and yet its experience is instructive. The elected Controller is granted extensive audit authority, and yet the city’s bond ratings are not impressive. The Philadelphia Home Rule Charter is seen as a strong mayor model, and in some years the city’s performance has worked to illustrate its promise. However, at present, the city is not hailed as a model of good financial management. Perhaps this is because Philadelphia’s economy is affected by more than its charter’s financial system. It is important to point out that a proper financial structure is necessary, but cannot serve as the number one predictor of how impressive a city’s CAFR will be.

⁸ The GFOA only examined the finances of cities over 500,000 population in 1994. As Oakland was not that large in 1994, it was not included in the survey. See James L. Chan and Rowan A. Miranda’s “Organizing the Finance Function for the City of Los Angeles of the 21st Century: A Report to the Los Angeles Charter Reform Commission,” GFOA Research Center, Chicago, IL, January 7, 1997.

APPENDIX ONE: Bond Ratings System

Fitch	Moody's	Standard & Poor's
AAA	Aaa	AAA
AA+	Aa1	AA+
AA	Aa2	AA
AA-	Aa3	AA-
A+	A1	A+
A	A2	A
A-	A3	A-
BBB+	Baa1	BBB+
BBB	Baa2	BBB
BBB-	Baa3	BBB-
BB+ (generally considered below investment grade)	Ba1 (generally considered below investment grade)	BB+ (generally considered below investment grade)
BB	Ba2	BB
BB-	Ba3	BB-
B+	B1	B+
B	B2	B
B-	B3	B-
CCC+	Caa1	CCC+
CCC	Caa2	CCC
CCC-	Caa3	CCC-
CC+	Ca1	CC+
CC	Ca2	CC
CC-	*	CC-
C+	C1	C+
C	C	C
C-	*	C-
D	*	D

<http://www.philadelphiacontroller.org/bonds.aspx>

APPENDIX TWO: 2005 Bond Ratings for Large U.S. Cities, Including San Diego

Table 434. **Bond Ratings for City Governments by Largest Cities: 4th quarter, 2005**

Cities Ranked by 2000 Population	Standard & Poor's	Moody's	Fitch
New York, NY	A+	A1	A+
Los Angeles, CA	AA	Aa2	AA
Chicago, IL	AA-	Aa3	AA
Houston, TX	AA-	Aa3	AA-
Philadelphia, PA	BBB	Baa1	(NA)
Phoenix, AZ	AA+	Aa1	(NA)
San Diego, CA	**	A3	BBB+
Dallas, TX	AA+	Aa1	(NA)
San Antonio, TX	AA+	Aa2	(NA)
Detroit, MI	BBB	Baa2	(NA)
San Jose, CA	AA+	Aa1	(NA)
Indianapolis, IN	AAA	(NA)	(NA)
San Francisco, CA	AA	Aa3	AA-
Jacksonville, FL	**	Aa2	(NA)
Columbus, OH	AAA	Aaa	(NA)
Austin, TX	AA+	Aa2	(NA)
Baltimore, MD	A+	A1	A+
Memphis, TN	A+	A1	AA-
Milwaukee, WI	AA	Aa2	AA+
Boston, MA	AA	Aa1	AA
Washington, DC	A+	A2	(NA)
El Paso, TX	AA	Aa3	(NA)
Seattle, WA	AAA	Aaa	(NA)
Denver, CO	AA+	Aa1	(NA)
Nashville-Davidson, TN	AA	Aa2	(NA)
Charlotte, NC	AAA	Aaa	AAA
Fort Worth, TX	AA+	Aa1	(NA)
Portland, OR	**	Aaa	(NA)
Oklahoma City, OK	AA	Aa2	(NA)
Tucson, AZ	AA	Aa3	(NA)
New Orleans, LA	B	Ba1	(NA)
Las Vegas, NV	AA-	Aa3	(NA)
Cleveland, OH	A	A2	A+
Long Beach, CA	AA-	Aa3	(NA)

Albuquerque, NM	AA	Aa3	AA
Kansas City, MO	AA	Aa3	(NA)
Fresno, CA	AA-	A1	(NA)
Virginia Beach, VA	AA+	Aa1	AA+
Atlanta, GA	AA-	Aa3	AA-
Sacramento, CA	AA	Aa2	(NA)
Oakland, CA	A+	A1	A+
Mesa, AZ	AA-	A1	(NA)
Tulsa, OK	AA	Aa2	(NA)
Omaha, NE	AAA	Aaa	(NA)
Minneapolis, MN	AAA	Aa1	(NA)
Honolulu, HI	AA-	Aa2	AA
Miami, FL	A+	A3	(NA)
Colorado Springs, CO	AA	Aa3	(NA)
St Louis, MO	A-	A3	A-
Wichita, KS	AA	Aa2	(NA)
Santa Ana, CA	**	(NA)	(NA)
Pittsburgh, PA	BBB-	Baa3	BBB
Arlington, TX	AA	Aa2	(NA)
Cincinnati, OH	AA+	Aa1	(NA)
Anaheim, CA	AA	Aa2	(NA)
Toledo, OH	A	A3	(NA)
Tampa, FL	A	Aa3	(NA)
Buffalo, NY	BBB-	Baa3	(NA)
St Paul, MN	AAA	Aa2	AA+
Corpus Christi, TX	A+	A1	AA-
Aurora, CO	AA	Aa2	(NA)
Raleigh, NC	AAA	Aaa	AAA
Newark, NJ	AA	Baa2	(NA)
Lexington-Fayette, KY	AA+	(NA)	(NA)
Anchorage, AK	**	Aa3	(NA)
Louisville, KY	AA+	Aa2	(NA)
Riverside, CA	A+	(NA)	(NA)
St Petersburg, FL	**	(NA)	(NA)
Bakersfield, CA	**	Aa3	(NA)
Stockton, CA	A+	A1	(NA)
Birmingham, AL	AA	Aa3	AA-
Jersey City, NJ	BBB	Baa3	(NA)
Norfolk, VA	AA	A1	AA
Baton Rouge, LA	**	(NA)	(NA)
Hialeah, FL	**	(NA)	(NA)

Lincoln, NE	AAA	Aaa	(NA)
Greensboro, NC	AAA	Aaa	AAA
Plano, TX	AAA	Aaa	(NA)
Rochester, NY	AA	A2	(NA)

SYMBOLS

NA = Not available

** = Not reviewed.

Source: http://www.census.gov/compendia/statab/state_local_govt_finances_employment/

APPENDIX THREE: Comparison of L.A. Charter Provisions, Pre- and Post-1999

1998 Los Angeles Charter

"Sec. 46.

The Controller shall be the auditor and general accountant of the City and shall exercise a general supervision over the accounts of all officers, boards, and employees of the City charged in any manner with the receipt, collection or disbursement of the money of the City. (Added, 1925.)

Sec. 47.

(1) The Controller shall have power to prescribe the method of installing, keeping and rendering all accounts of the several officers, boards or employees of the City; provided, however, that any change of the system of accounting shall first be authorized by the Council.

(2) He shall keep in his office a complete set of accounts which shall show at all times the financial condition of the City, the state of each fund, the source from which all money was derived and for what purposes all money has been expended.

(3) He shall, on application of any person indebted to the City, or for any person holding money payable into the City treasury and desiring to pay money thereinto, certify to the Treasurer the amount thereof, in which fund it shall be deposited and by whom to be paid. He shall, upon the deposit of evidence of the receipt by the Treasurer of money paid into the City treasury charge the Treasurer with the amount so received.

(4) He shall audit all accounts and money coming into the hands of the Treasurer and shall maintain a reconciliation between all accounts kept in the books in the office of the Treasurer with the accounts kept in the books in his own office, and shall from time to time verify the condition of all funds in the hands of the Treasurer, and shall report to the Mayor and Council thereon.

(5) He shall keep a register of demands, showing the fund upon which they are drawn, the number, in whose favor, for what service, the appropriation applicable to the payment thereof, when the liability accrued and the authority for same.

(6) He shall allocate among the several respective funds all public money at any time in the City treasury not by law or ordinance otherwise specifically allocated and appropriated, and forthwith notify the Treasurer of such allocation or appropriation.

(7) He shall report to the Mayor and Council, at times established by law, the condition of each fund in the books of his office, and shall make such other or special reports as the Mayor or Council may from time to time request. (Amended, 1973.)

(8) He shall audit and approve before payment all demands drawn on the several funds of the City and keep a record of the same in accordance with any provisions made by law or ordinance or by this Charter.

(9) He shall inspect and audit the books, accounts, funds and securities of every person charged in any way with the safekeeping or disbursement of public money or securities.

(10) He shall have power to maintain each fund on a parity with its obligations at all times by transferring from the reserve fund as a loan to any fund which may become depleted through tardy receipt of revenues. He shall, in all cases, upon receipt of revenues sufficient

to make such allocation as will restore each such fund to parity, retransfer the amount of such loan to the reserve fund.

(11) Prior to his approval of any demand therefor, he may, in addition to other inspection provided, make inspection as to the quality, quantity and condition of services, labor, materials, supplies or equipment received by any officer or department of the City. If, in his opinion, any demand is not a legal demand, he shall withhold approval of the same, and immediately file such demand, together with his action thereon and the reasons therefor, with the Council for instructions thereon, as elsewhere in this Charter provided.

(12) He shall keep a record and have custody of all official bonds except the bond of the Controller, which shall be filed with the City Clerk, and shall have charge of the placing and renewal of all corporate surety bonds of officers or employees; provided, however, that the reliability of corporate sureties shall be first subject to the approval of the Council.

(13) He shall countersign and deliver to the proper officer all licenses other than building permits issued by the City.

(14) He may suggest plans for the improvement and management of the revenues of the City. (Sec. Added, 1925.)

1999 Los Angeles Charter:

CONTROLLER

Sec. 260. Auditor and General Accountant.

The Controller shall be the auditor and general accountant of the City and shall exercise a general supervision over the accounts of all offices, departments, boards and employees of the City charged in any manner with the receipt, collection or disbursement of the money of the City. The Controller shall be elected as provided in Section 202.

Sec. 261. Powers and Duties.

The Controller shall:

(a) appoint assistants, deputies, clerks and other persons as the Council shall prescribe by ordinance;

(b) prescribe the method of keeping all accounts of the offices, departments, boards or employees of the City in accordance with generally accepted accounting principles, except that any change of the system of accounting shall first be authorized by the Council;

(c) regularly review the accounting practices of offices and departments and upon finding serious failings in accounting practices, be empowered to take charge of the accounting function, and thereafter assist the office or department in implementing appropriate accounting standards and practices;

(d) maintain a complete set of accounts which shall be deemed the official books and accounts of the City, which shall show at all times the financial condition of the City, the state of each fund, including funds of departments responsible for managing their own funds, the source from which all money was derived and for what purposes all money has been expended;

- (e) in compliance with generally accepted government auditing standards, audit all departments and offices of the City, including proprietary departments, where any City funds are either received or expended; be entitled to obtain access to all department records and personnel in order to carry out this function; establish an auditing cycle to ensure that the performance, programs and activities of every department are audited on a regular basis, and promptly provide completed audit reports to the Mayor, Council, and City Attorney and make those reports available to the public;
- (f) maintain a reconciliation between the accounts in all offices and departments with the accounts in the Controller's office, and from time to time, verify the condition of all City funds in the City Treasury, and report to the Mayor and Council thereon;
- (g) allocate among the several respective funds all public money at any time in the City Treasury not otherwise specifically allocated and appropriated by law or ordinance, and promptly notify the Treasurer of the allocation or appropriation;
- (h) report to the Mayor and Council, at times established by law, the condition of each fund, and make other reports as the Mayor or Council requests;
- (i) maintain each fund on a parity with its obligations at all times by transferring from the Reserve Fund as a loan to any fund which may become depleted through tardy receipt of revenues, and upon receipt of revenues sufficient to make an allocation as will restore each fund to parity, retransfer the amount of the loan to the Reserve Fund;
- (j) monitor the level of debt incurred by the City and report periodically to the Mayor and Council on City debt; and
- (k) conduct performance audits of all departments and may conduct performance audits of City programs, including suggesting plans for the improvement and management of the revenues and expenditures of the City. Nothing in this subsection shall preclude the Mayor or Council from conducting management studies or other review of departmental operations.

APPENDIX FOUR: San Francisco Charter provisions on the Controller's Authority

"F1.100. FINDINGS.

(a) City residents rely upon the government of the City and County to deliver many important services affecting the health, vitality and economy of San Francisco. These include services related to the maintenance and cleanliness of streets and parks, health care, emergency services, transportation and public works. Recognizing the difficult economic times the City faces, preservation and enhancement of such services can be achieved only by ensuring that City services are delivered in an efficient, cost-effective manner, and that government waste and unnecessary bureaucracy are curtailed to the greatest extent possible.

(b) It is often difficult for individual San Franciscans to judge the effectiveness and efficiency of local government in providing direct services to residents because of the size and complexity of City government. Consistent with the goals of open government, City government should establish tools to enable residents to assess the effectiveness and efficiency of City services; to compare the City's progress in delivering such services to that of other cities, counties and government agencies; and, where appropriate, to adopt "best practices" used in other jurisdictions when consistent with the goals of San Francisco residents.

(c) The San Francisco Controller is uniquely situated to provide objective, rigorous measurement of City service levels and effectiveness because the Controller is already charged with assessment of departmental performance and fiscal soundness. In addition, the Controller is appointed to a ten-year term, and therefore is sufficiently independent to render impartial assessments of the City's provision of public services.

(d) Therefore, this Charter Amendment:

(1) Establishes the Controller as the City Services Auditor, with the authority to conduct independent management and performance audits of departments providing services to San Francisco residents;

(2) Instructs the Controller/City Services Auditor to publish comparisons of the performance of San Francisco departments, the services they deliver, and the outcomes they achieve with other public agencies;

(3) Requires that the Controller/City Services Auditor perform comprehensive financial and performance audits of selected City departments each year;

(4) Mandates that the Controller/City Services Auditor review standards for street and park maintenance in consultation with responsible City departments and perform an annual Clean Streets/Clean Parks audit to track whether these standards are met;

(5) Provides the Controller/City Services Auditor the authority to review Citywide standards for government contracting processes and the development of "Requests For Proposals" to ensure that the selection process is fair and unbiased;

(6) Prohibits conflicts of interest in the auditing process by preventing companies that have participated in departmental operations from acting as outside auditors, requiring that all employees participating in audits be designated confidential employees for labor-relations purposes, and permitting the Controller to obtain outside independent assistance when in-house employees are subject to potential conflicts of interest;

(7) Requires the Controller/City Services Auditor to administer and publicize a whistleblower hotline and website for citizens and employees to report wrongdoing, waste, inefficient practices and poor performance in City government and service delivery;

(8) Authorizes the Citizens' General Obligation Bond Oversight Committee to also function as an independent Citizens Audit Review Board to advise the Controller/City Services Auditor, to recommend departments in need of comprehensive audit, and to review citizen complaints received through the whistleblower program; and

(9) Provides a dedicated source of revenue equivalent to two-tenths of one percent of the budget of the City and County of San Francisco.

(Added November 2003)

F1.101. CITY SERVICES AUDITOR; SERVICES AUDIT UNIT.

(a) In addition to the other duties prescribed by this Charter, the Controller shall perform the duties of a City Services Auditor, responsible for monitoring the level and effectiveness of services provided by the government of the City and County of San Francisco to the people of San Francisco. The City Services Auditor shall establish and maintain a Services Audit Unit in the Controller's Office to ensure the financial integrity and improve the overall performance and efficiency of City government. The Services Audit Unit shall review performance and cost benchmarks developed by City departments in consultation with the Controller and based on their departmental efficiency plans under Chapter 88 of the Administrative Code, and conduct comparisons of the cost and performance of San Francisco City government with other cities, counties and public agencies performing similar functions. In particular, the Services Audit Unit shall assess:

- (1) Measures of workload addressing the level of service being provided or providing an assessment of need for a service;
 - (2) Measures of efficiency including cost per unit of service provided, cost per unit of output, or the units of service provided per full time equivalent position; and
 - (3) Measures of effectiveness including the quality of service provided, citizen perceptions of quality, and the extent a service meets the needs for which it was created.
- (b) The service areas for which data is collected and comparisons conducted shall include, but not be limited to:

- (1) The cleanliness and condition of streets, sidewalks, and the urban environment and landscape;
- (2) The performance of other public works and government-controlled public utilities, including water and clean water programs;
- (3) Parks, cultural and recreational facilities;
- (4) Transportation, as measured by the standards set out in Charter Section 8A.103, provided, however, that primary responsibility for such assessment shall continue to be exercised by the Municipal Transportation Agency pursuant to Charter Section 8A.100 et seq.;
- (5) The criminal justice system, including the Police Department, Juvenile and Adult Probation Departments, Sheriff, District Attorney and Public Defender;
- (6) Fire and paramedic services;
- (7) Public health and human services;
- (8) City management; and,
- (9) Human resources functions, including personnel and labor relations.

(c) The information obtained using the service measurement standards set forth above shall be compiled on at least an annual basis, and the results of such benchmark studies, as well as comparative data, shall be available on the City's website.

(Added November 2003)

F1.102. STREET, SIDEWALK, AND PARK CLEANING AND MAINTENANCE.

(a) The Services Audit Unit shall conduct annually a performance audit of the City's street, sidewalk, and public park maintenance and cleaning operations. The annual audit shall:

- (1) Include quantifiable, measurable, objective standards for street, sidewalk, and park maintenance, to be developed in cooperation and consultation with the Department of Public Works and the Recreation and Park Department;
- (2) Based upon such measures, report on the condition of each geographic portion of the City;
- (3) To the extent that standards are not met, assess the causes of such failure and make recommendations of actions that will enhance the achievement of those standards in the future;

(4) Ensure that all bond funds related to streets, parks and open space are spent in strict accordance with the stated purposes and permissible uses of such bonds, as approved by the voters.

Outside of the audit process, the City departments charged with cleaning and maintaining streets, sidewalks, and parks shall remain responsible for addressing individual complaints regarding specific sites, although the Controller may receive and investigate such complaints under Section F1.107.

(b) In addition, all City agencies engaged in street, sidewalk, or park maintenance shall establish regular maintenance schedules for streets, sidewalks, parks and park facilities, which shall be available to the public and on the department's website. Each such department shall monitor compliance with these schedules, and shall publish regularly data showing the extent to which the department has met its published schedules. The City Services Audit Unit shall audit each department's compliance with these requirements annually, and shall furnish recommendations for meaningful ways in which information regarding the timing, amount and kind of services provided may be gathered and furnished to the public.

(Added November 2003)

F1.103. MANAGEMENT PRACTICES.

The City Services Audit Unit shall:

- (1) Conduct and publish an annual review of management and employment practices, including City policies and MOU provisions, that either promote or impede the effective and efficient operation of City government;
- (2) Identify the top five City departments by workers compensation claims, list the cost of these claims, and recommend ways to reduce both workplace injuries and improper claims;
- (3) Identify the top five departments by overtime expenditures and report on the cause and potential mitigations for any excessive overtime spending; and,
- (4) Conduct best practices reviews and other studies and assist departments in implementing their findings.

(Added November 2003)

F1.104. PERFORMANCE AUDITS.

The City Services Audit Unit shall conduct periodic, comprehensive financial and performance audits of City departments, services, and activities. Except as provided in Section F1.102, the Controller shall have discretion to select, on a rotating basis, departments, services, and activities for audit, giving priority to matters affecting direct services to the residents of the City and County of San Francisco. In selecting audit subjects, the Controller shall give preference to requests for performance audits made by the Audit Review Board, the Mayor, the Board of Supervisors, department heads, and commissions; provided, however, that absent extraordinary circumstances, no department, activity, or service shall be subject to repeated audits in two successive years.

(Added November 2003)

F1.105. AUDIT RESULTS.

(a) Before making public any portion of any draft, notes, preliminary or final report relating to the operations or activities of a City officer or agency, the Controller shall deliver a copy of the draft report to any such officer, and to the head of any agency discussed in such report and provide the officer and agency, in writing, with a reasonable deadline for their review and response. The Controller shall include in any report, or portion thereof that is made public, a copy or summary of all such officer and agency responses. In addition, the audit shall include an analysis of the anticipated costs and/or savings of any recommendations contained in the report.

(b) The Controller shall publish the results of all final performance audits and a summary of agency responses, shall deliver copies of such audits to relevant department heads, Audit Review Board, Mayor, City Attorney, Board of Supervisors, San Francisco Civil Grand Jury, and San Francisco Public Library, and shall make the audits available on the City's website. Each department subject to recommendations by the Controller shall include with its next two annual budget requests following such audit a report on the status of the Controller's recommendations. In particular, the report shall include:

- (1) the Controller's final audit recommendations;
- (2) a plan to address the Controller's findings and to implement the Controller's recommendations;
- (3) any costs or savings reflected in the proposed budget attributable to implementation of Controller recommendations; and
- (4) a statement of the recommendations that the department does not intend to implement and the basis of the department head's determination not to adopt the Controller's recommendation.

(c) To avoid conflicts of interest, all employees engaged in preparation of audits shall be designated as confidential employees. If the Controller determines that any member of the regular audit staff is unable to participate in an audit due to a potential conflict of interest, or as a result of the employee's collective bargaining representation, the Controller shall have the option of assigning other employees regardless of civil service job description, hiring outside experts, or contracting for such services with an outside individual or agency. (Added November 2003)

F1.106. OVERSIGHT OF CONTRACTING PROCEDURES.

The Controller shall have the duty to perform regular oversight of the City's contracting procedures, including developing model criteria and terms for City Requests for Proposals (RFPs), auditing compliance with City contracting rules and procedures, and, where appropriate, investigating cases of alleged abuse or conflict of interest. Nothing in this Section shall be construed to alter the existing jurisdiction of City departments and agencies with respect to contracting. Should the Controller find that there has been an abuse or conflict of interest, he or she shall refer that finding to the Ethics Commission, the District Attorney, and the City Attorney for possible enforcement action.

(Added November 2003)

F1.107. CITIZENS' COMPLAINTS; WHISTLEBLOWERS.

(a) The Controller shall have the authority to receive individual complaints concerning the quality and delivery of government services, wasteful and inefficient City government practices, misuse of City government funds, and improper activities by City government officers and employees. When appropriate, the Controller shall investigate and otherwise attempt to resolve such individual complaints except for those which:

- (1) another City agency is required by federal, state, or local law to adjudicate,
- (2) may be resolved through a grievance mechanism established by collective bargaining agreement or contract,
- (3) involve allegations of conduct which may constitute a violation of criminal law, or
- (4) are subject to an existing, ongoing investigation by the District Attorney, the City Attorney, or the Ethics Commission, where either official or the Commission states in writing that investigation by the Controller would substantially impede or delay his, her, or its own investigation of the matter.

If the Controller receives a complaint described in items (1), (2), (3), or (4) of this paragraph, the Controller shall advise the complainant of the appropriate procedure for the resolution of such complaint.

(b) If the Controller receives a complaint alleging conduct that may constitute a violation of criminal law or a governmental ethics law, he or she shall promptly refer the complaint

regarding criminal conduct to the District Attorney or other appropriate law enforcement agency and shall refer complaints regarding violations of governmental ethics laws to the Ethics Commission and the City Attorney. Nothing in this Section shall preclude the Controller from investigating whether any alleged criminal conduct also violates any civil or administrative law, statute, ordinance, or regulation.

(c) Notwithstanding any provision of this Charter, including, but not limited to Section C3.699-11, or any ordinance or regulation of the City and County of San Francisco, the Controller shall administer a whistleblower and citizen complaint hotline telephone number and website and publicize the hotline and website through press releases, public advertising, and communications to City employees. The Controller shall receive and track calls and emails related to complaints about the quality and delivery of government services, wasteful and inefficient City government practices, misuse of government funds and improper activities by City government officials, employees and contractors and shall route these complaints to the appropriate agency subject to subsection (a) of this Section. The Board of Supervisors shall enact and maintain an ordinance protecting the confidentiality of whistleblowers, and protecting City officers and employees from retaliation for filing a complaint with, or providing information to, the Controller, Ethics Commission, District Attorney, City Attorney or a City department or commission about improper government activity by City officers and employees. The City may incorporate all whistleblower functions set forth in this Charter or by ordinances into a unified City call center, switchboard, or information number at a later time, provided the supervision of the whistleblower function remains with the Controller and its responsibilities and function continue unabridged.

(Added November 2003)

F1.108. CUSTOMER SERVICE PLANS.

The Controller shall assess the progress of City departments' compliance with Charter Section 16.120 and any implementing ordinances requiring City departments to prepare effective customer service plans. The Controller shall make recommendations to departments to improve the effectiveness of such plans. The Controller shall report to the Board of Supervisors and Mayor the failure of any department to comply substantially with the Controller's recommendations regarding customer service plans.

(Added November 2003)

F1.109. LEGISLATION.

The Controller may propose legislation to the Board of Supervisors and the Mayor to improve City programs and services and to make the delivery of such programs and services more efficient.

(Added November 2003)

F1.110. ACCESS TO RECORDS; PRELIMINARY REPORTS.

(a) The Controller shall have timely access to all records and documents the Controller deems necessary to complete the inquiries and reviews required by this Appendix. If a City officer, employee, agency, department, commission, or agency does not comply with the Controller's request for such records and documents, the Controller may issue a subpoena. The provisions of this subdivision shall not apply to those records and documents of City agencies for which a claim of privilege has been properly and appropriately raised, or which are prepared or maintained by the City Attorney, the District Attorney, or the Ethics Commission for use in any investigation authorized by federal, state law or local law.

(b) Notwithstanding any other provision of this Charter, or any ordinance or regulation of the City and County of San Francisco, and except to the extent required by state or federal law, all drafts, notes, preliminary reports of Controller's benchmark studies, audits, investigations and other reports shall be confidential.

(Added November 2003)

F1.111. CITIZENS AUDIT REVIEW BOARD.

In addition to its duties under Article V of Chapter 5 of the Administrative Code, the Citizens' General Obligation Bond Oversight Committee shall serve as a Citizens Audit Review Board. In its role as the Review Board, the Oversight Committee shall provide advisory input to the Controller on matters pertaining to the functions set forth in this Appendix, and, in particular, shall:

- (1) Review the Controller's service standards and benchmarks to ensure their accuracy and usefulness;
- (2) Review all audits to ensure that they meet the requirements set forth above;
- (3) Subject to appropriate rules ensuring the confidentiality of complainants, as well as the confidentiality of complaints referred to and handled by the District Attorney, the City Attorney, and the Ethics Commission, review citizen and employee complaints received through the whistleblower/complaint hotline and website and the Controller's disposition of those complaints; and
- (4) Where it deems appropriate, hold public hearings regarding the results of benchmark studies and audits to encourage the adoption of "best practices" consistent with the conclusions of the studies and audits. An audio or video recording of such hearings shall be made available for public inspection free of charge.

(Added November 2003)

F1.112. OUTSIDE EXPERTS.

(a) Notwithstanding any other provision of this Charter or any ordinance or regulation of the City and County of San Francisco, the Controller shall be authorized to contract with outside, independent experts to assist in performing the requirements of this Appendix. In doing so, the Controller shall make good faith efforts as defined in Chapter 12D of the Administrative Code to comply with the provisions of Chapters 12 et seq. of the Administrative Code, but shall not be subject to the approval processes of other City agencies. The Controller shall submit an annual report to the Board of Supervisors summarizing any contracts issued pursuant to this Section and discussing the Controller's compliance with Chapters 12 et seq. Contracts issued by the Controller pursuant to this Section shall be subject, where applicable, to the requirements of Section 9.118.

(b) No outside expert or firm shall be eligible to participate or assist in an audit or investigation of any issue, matter, or question as to which that expert or firm has previously rendered compensated advice or services to any individual, corporation or City department other than the Controller. The Controller shall adopt appropriate written regulations implementing this provision, and shall incorporate this requirement in all written contracts with outside experts and firms utilized pursuant to this Section.

(Added November 2003)

F1.113. CONTROLLER'S AUDIT FUND.

Notwithstanding any other provision of this Charter, the Mayor and Board of Supervisors shall be required to budget an amount equal to at least two-tenths of one percent (0.2%) of the City's overall budget, apportioned by fund and excluding bond related debt, to implement this provision. This amount shall be referred to as the Controller's Audit Fund, and shall be used exclusively to implement the duties and requirements of this Appendix, and shall not be used to displace funding for the non-audit related functions of the Controller's Office existing prior to the date this provision is enacted. If the funds are not expended or encumbered by the end of the fiscal year, the balance in the fund shall revert to the General Fund or the enterprise funds where it originated.

(Added November 2003)

F1.114. OPERATIVE DATE; SEVERABILITY.

(a) This charter amendment shall be operative on July 1, 2004. This amendment shall not affect the term or tenure of the incumbent Controller.

(b) If any section, subsection, provision or part of this charter amendment or its application to any person or circumstances is held to be unconstitutional or invalid, the remainder of the amendment, and the application of such provision to other persons or circumstances, shall not be affected.

(Added November 2003)"